

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Philip G. Reinhard	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 50169	DATE	8/21/2008
CASE TITLE	Kevin Riley (#34982 ) v. Keith Nygren		

## DOCKET ENTRY TEXT:

Plaintiff Kenneth E. Smith has neither paid the filing fee nor submitted an *in forma pauperis* application. Plaintiff Kevin Riley has submitted an incomplete *in forma pauperis* application [3], which the Court denies without prejudice to Riley submitting a completed application. To proceed with this case, the plaintiffs must either prepay the \$350 filing fee or submit completed applications to proceed *in forma pauperis*. Failure to comply within 30 days of the date of this order will result in dismissal of this case without prejudice. Local Rule 3.3(e). The clerk is directed to send to both Smith and Riley an *in forma pauperis* application, along with a copy of this order.

*Philip G. Reinhard*

■ [For further details see text below.]

Notices mailed by Judge's Staff.

## STATEMENT

Two inmates at the McHenry County Jail, Kevin Riley and Kenneth Smith, filed this 42 U.S.C. § 1983 action against Keith Nygren (McHenry County Sheriff) and Daniel Sedlock Jr. (Chief of Corrections). The plaintiffs challenge several jail conditions, including: an inability to practice their Muslim faith, unreasonable searches of cells, inadequate grievance system, toilets that back up, and an unreasonable restriction of visits. Plaintiff Riley's *in forma pauperis* application is incomplete, and Plaintiff Smith neither paid the \$350 filing fee nor submitted an application to proceed *in forma pauperis*. Each plaintiff must either prepay the \$350 filing fee or submit an *in forma pauperis* application to pay his fee in installments. *See Boriboune v. Berge*, 391 F.3d 852, 856 (7th Cir. 2004). The issue of the filing fee must be resolved before this case can proceed.

Under the Prison Litigation Reform Act ("PLRA"), an inmate must either prepay the \$350 filing fee or seek leave to proceed *in forma pauperis* to file his complaint. If the inmate is unable to prepay the filing fee, the Court will assess an initial partial payment, and allow deductions from the plaintiff's prison or jail trust fund account as additional partial payments until the entire filing fee is paid. This Court requires that inmates seeking leave to proceed *in forma pauperis* file their motions on a prescribed form. Local Rule 3.3. The form requires inmates to obtain a certificate from an authorized officer stating the amount of money they have on deposit in their prison or jail trust fund account. Inmates must also "submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined." 28 U.S.C. § 1915(a)(2). These documents are necessary for this Court to determine whether the plaintiffs qualify as paupers and to assess an initial partial payment of the filing fee. The filing fee requirement applies to each inmate seeking to file suit, and both Riley and Smith must pay the filing fee. *Boriboune*, 391 F.3d at 856.

(CONTINUED)

**STATEMENT (continued)**

Plaintiff Riley's *in forma pauperis* application contains neither a certificate from an authorized officer, nor a copy of his jail trust fund account. Plaintiff Smith filed no application, nor paid the \$350 filing fee. If either plaintiff wants to proceed with this action, he must either prepay the \$350 filing fee or submit a completed *in forma pauperis* application on the enclosed form, including a certificate and a copy of his trust fund account showing all activity therein for the six-month period immediately preceding his filing of the instant suit. The clerk shall forward an *in forma pauperis* application form to each plaintiff. Failure to submit a completed application on this Court's form or pay the \$350 filing fee within 30 days will result in dismissal of the non-complying plaintiff's case. See N.D. Ill. Local Rule 3.3(e).